MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2020/2021

UPP4712 – PROFESSIONAL PRACTICE I

(All Sections / Groups)

30 OCTOBER 2020
Reading Time : 9.00 a.m. – 9.15 a.m.
(15 Minutes)
Answering Time: 9.15 a.m. – 12.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 4 pages with 4 Questions only.

3. This paper consists of two parts. **PART A**: Answer only **ONE QUESTION**. **PART B**: Answer **ALL QUESTIONS**. All questions carry equal marks and the distribution of the marks for each question is given.

   Students are only allowed to bring in CLEAN AND ORIGINAL COPY of Legal Profession Act (Act 166), Rules & Orders.

   "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

4. Please write all your answers in the Answer Booklet provided.

PART A: CHOOSE EITHER QUESTION 1 (A) OR 1 (B)

QUESTION 1(A)

Yoon Chai is practicing law with his partner at Messrs. Chai & Co at Mont Kiara, Kuala Lumpur. This firm is in practice for last 15 years with a main area of practice in civil litigation. This firm commands good reputation in the Capital City.

Messrs. Chai &Co. always handles high profile litigation cases throughout the country. Yoon Chai's reputation for his legal acumen is well known and he is often appearing in the media upon winning high profile cases.

During the early months of Covid-19, the business began showing signs of drop in income. The firm has high overheads to manage such as big payment of salaries to its employees. In June 2020, Yoon Chai was approached by the Borneo Newspaper's managing editor who promised a payment of RM1(one) Million if Yoon Chai is agreeable to reveal the international transactions done by a known dignitary. Yoon Chai was hesitant initially, but finally succumbed to reveal the needed information. Yoon Chai was desperately needed the money to replace a large sum of money taken from Client's Account that was used to pay the salaries and to cover his large personal debts. He ignored all advises from his Partner not to meddle with the Client's account.

As days progress, the pressure of sustaining the business become increasingly hard. Yoon Chai began showing signs of depression. His Partner has left the firm and Yoon Chai was forced to handle all matters himself. As a result, he missed to attend important court hearings. Further, he failed to file in relevant court documents on time. He attended unprepared for cases in Court and at times failed to attend court hearings or seeking adjournments.

Critically analyse Yoon Chai's conduct as a lawyer in relation to the law and rules governing the legal profession in Malaysia

(Total 25 Marks)

Continued...

QUESTION 1 (B)

In Malaysia, the rules of Ethics of the legal profession, made pursuant to Section 77 of the Legal Profession Act 1976, regulate the professional conduct of all practicing advocates and solicitors in this country, in particular the Legal Profession (Practice and Etiquette) Rules 1978.

Critically analyse how the above Rules exemplify the importance of etiquette and the duty of advocates and solicitors to the system of justice, to the legal profession, to the Court, to the opposing counsel and to clients?

In your answer stress on how these rules cover the morals, values and the conventions governing the legal profession in Malaysia.

(Total 25 Marks)

Continued...

SECTION B: ANSWER ALL QUESTIONS

QUESTION 2

On 14 July 2020, Mr. Han Som Kuu wrote a letter of complaint alleging misconduct committed by Mr. Black, an advocate and solicitor, in attesting the signature of two vendors of a piece of property without seeing them sign in his presence. In his letter of complaint, Mr. Han Som Kuu claimed that the property was co-owned by one Mdm Ma and Mr. Pa and that they could not have signed the instrument of transfer because Mdm Ma had died before the transfer and Mr Pa claimed that he had not signed the said transfer. As such concluded that Mr. Black, had committed a 'penipuan' in saying that the signatures of the vendors were attested before him.

Based on the above fact, illustrate the procedure of disciplinary proceedings by the Legal Professional Act against Advocates & Solicitors.

(Total: 25 marks)

QUESTION 3

Mr. Red was a solicitor for Madam Pepel in a Sale and Purchase transaction of a property involving a sum of RM 2 million. On 15/8/2020, Mr. Red had forwarded to En. Hitam, the vendor's solicitor the balance of purchase price of RM 100,000.00 on En. Hitam's undertaking to forward to Mr. Red, the document of title of the said property within fourteen (14) days of the said date.

En. Hitam had received the letter and had duly credited the cheque for the sum of RM 100,000.00 into his client account. En. Hitam immediately left for an urgent family overseas trip. He did not reply Mr. Red's letter nor did he leave any instruction to his firm to reply the letter. The fourteen (14) days lapsed.

Continued...

Examine the issue of undertaking in law, with reference to the following:

(a) Analyse how the above undertaking should have been fulfilled?

(10 marks)

(b) How is the undertaking to be enforced?

(15 marks)

(Total: 25 Marks)

QUESTION 4

The Federal Court in ***Monatech (M) Sdn Bhd v Jasa Keramat Sdn Bhd*** adopted the general definition of contempt of court as provided by Oswald, who defines contempt as follows:

"*...contempt of court may be said to be constituted by any conduct that tends to bring the authority and the administration of the law into disrespect or disregard, or to interfere with or prejudice parties, litigants, their witnesses during the litigation.*"

Based on the above definition, answer the following:

(a) Distinguish the differences between civil contempt and criminal contempt.

(15 marks)

(b) Illustrate the procedure for criminal contempt.

(10 marks)

(Total: 25 Marks)

End of page.